

E-139-15**Contract Details**

SERVICES: Special Counsel

NIFS ID #: CLAT15000008 NIFS Entry Date: 06/05/2015 Term: November 28, 2011 - Completion

New <input type="checkbox"/> Renewal <input type="checkbox"/>	1) Mandated Program:	Yes <input type="checkbox"/>	No X
Amendment # 2 X	2) Comptroller Approval Form Attached:	Yes X	No <input type="checkbox"/>
Time Extension <input type="checkbox"/>	3) CSEA Agmt. § 32 Compliance Attached:	Yes <input type="checkbox"/>	No X
Addl. Funds X	4) Vendor Ownership & Mgmt. Disclosure Attached:	Yes X	No <input type="checkbox"/>
Blanket Resolution <input type="checkbox"/>	5) Insurance Required	Yes X	No <input type="checkbox"/>
RES#			

Agency Information

Vendor	
Name Lewis Johs Avallone Aviles, LLP	Vendor ID# 113168894
Address One CA Plaza Suite 225 Islandia, New York 11749	Contact Person Robert J. Avallone
	Phone (631) 755-0101

County Department
Department Contact Daniel Gregware
Address 1 West St. Mineola, New York 11501
Phone (516) 571-1675

Routing Slip

DATE Rec'd.	DEPARTMENT	Internal Verification	DATE App'd & Fw'd.	SIGNATURE	Leg. Approval Required
	Department	NIFS Entry (Dept) <input type="checkbox"/> NIFS Appvl (Dept. Head) <input type="checkbox"/>		<i>[Signature]</i>	
	OMB	NIFS Approval <input type="checkbox"/>	6/10/15	<i>[Signature]</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> Not required if blanket resolution
6/26/15	County Attorney	CA RE&I Verification <input checked="" type="checkbox"/>	6/29/15	<i>[Signature]</i>	
	County Attorney	CA Approval as to form <input type="checkbox"/>	8/21/2015	<i>[Signature]</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
	LEG	Legislative Affairs Fw'd Original K to CA <input type="checkbox"/>	7/8/15	<i>[Signature]</i>	
		Rules <input type="checkbox"/> / Leg. <input type="checkbox"/>			
	County Attorney	NIFS Approval <input type="checkbox"/>			
	County Comptroller	NIFS Approval <input type="checkbox"/>			
7/8/15	County Executive	Notarization Filed with Clerk of the Leg. <input type="checkbox"/>	7/8/15	<i>[Signature]</i>	

01-05-2

Contract Summary

Description: Outside counsel legal services, Amendment # 2
Purpose: The original contract was to represent the County in Robert J. Del Col, Esq. and Leftheris "Ted" Doukas v. County of Nassau, et al. The first amendment increased the maximum amount and amended the services so that Counsel also represents the County and/or such other party as the County may be required to defend, in the <u>Randy A. Hoskins, aka Randy A. White v. County of Nassau, Nassau County Police Department, Commissioner of Police Thomas Dale, Chief of Detectives John Capece, Sgt. Sal Mistretta, Police Officers "John Does 1-10", Nassau County Jail and Sheriffs Department, Correction Officers "John Does 11-20", Elected and Appointed Officials "John Does 21-30"</u> . This amendment # 2 increases the maximum amount of the contract.
Method of Procurement: Contract amendment. See below for procurement history.
Procurement History: For the services provided under the original contract: An RFQ was issued and a panel was established. Lewis Johs Avallone Aviles, LLP was selected off of that panel based upon their experience, expertise and availability for the services provided under the original contract. Further, Lewis Johs Avallone Aviles, LLP had previous contracts with the County. For the services added under amendment # 1: A Request for Qualifications was issued and a panel established. Lewis Johs Avallone Aviles, LLP has been added to this panel. The firm Lewis Johs Avallone Aviles, LLP has been selected for the matter added under amendment # 1 after a review of the panel based on the firm's experience, expertise in the subject matter, and availability.
Description of General Provisions: As described above
Impact on Funding / Price Analysis: \$125,000.00 max amount increase, but only \$50,000 initial encumbrance as per amendment # 2.
Change in Contract from Prior Procurement: N/A
Recommendation: approve as submitted

Advisement Information

BUDGET CODES	
Fund:	GEN
Control:	AT
Resp:	1100
Object:	DE502
Transaction:	

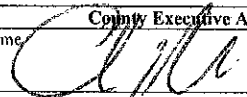
FUNDING SOURCE	AMOUNT
Revenue Contract <input type="checkbox"/>	XXXXXXXX
County	\$50,000.00
Federal	\$
State	\$
Capital	\$
Other	\$
TOTAL	\$50,000.00

LINE	INDEX/OBJECT CODE	AMOUNT
1	ATGEN1100/DE502	\$50,000.00
2		\$
3		\$
4		\$
5		\$
16		\$
TOTAL		\$50,000.00

RENEWAL	
% Increase	
% Decrease	

Document Prepared By: _____

Date: _____

NIFS Certification	Comptroller Certification	County Executive Approval
I certify that this document was accepted into NIFS.	I certify that an unencumbered balance sufficient to cover this contract is present in the appropriation to be charged.	Name: 
Name	Name	Date: 7/8/11
Date	Date	(For Office Use Only)
		E #:

RULES RESOLUTION NO. – 2015

A RESOLUTION AFFIRMING TO AN AMENDMENT TO A
SPECIAL COUNSEL CONTRACT ENTERED INTO BY THE NASSAU
COUNTY ATTORNEY AND LEWIS JOHS AVALLONE AVILES, LLP

WHEREAS, the Nassau County Attorney has executed an amendment to a special counsel agreement with Lewis Johs Avallone Aviles, LLP, a copy of which is on file with the Clerk of the Legislature; now, therefore, be it

RESOLVED, notwithstanding Nassau County Charter Section 1101, the Rules Committee of the Nassau County Legislature affirms the amendment to a special counsel contract entered into by the Nassau County Attorney and Lewis Johs Avallone Aviles, LLP

George Maragos
Comptroller



OFFICE OF THE COMPTROLLER
240 Old Country Road
Mineola, New York 11501

COMPTROLLER APPROVAL FORM FOR PERSONAL, PROFESSIONAL OR HUMAN SERVICES CONTRACTS

Attach this form along with all personal, professional or human services contracts, contract renewals, extensions and amendments.

CONTRACTOR NAME: Lewis Johs Avallone Aviles, LLP (CLAT15000008)

CONTRACTOR ADDRESS: One CA Plaza, Suite 225, Islandia, New York 11749

FEDERAL TAX ID #: 113168894

Instructions: Please check the appropriate box ("☑") after one of the following roman numerals, and provide all the requested information.

I. ☐ The contract was awarded to the lowest, responsible bidder after advertisement for sealed bids. The contract was awarded after a request for sealed bids was published in _____ [newspaper] on _____ [date]. The sealed bids were publicly opened on _____ [date]. _____ [#] of sealed bids were received and opened.

II. ☐ The contractor was selected pursuant to a Request for Proposals.

The Contract was entered into after a written request for proposals was issued on _____ [date]. Potential proposers were made aware of the availability of the RFP by _____ [newspaper advertisement, posting on website, mailing, etc.]. _____ [#] of potential proposers requested copies of the RFP. Proposals were due on _____ [date]. _____ [#] proposals were received and evaluated. The evaluation committee consisted of: _____

_____ [list members]. The proposals were scored and ranked. As a result of the scoring and ranking (attached), the highest-ranking proposer was selected.

III. X This is a renewal, extension or amendment of an existing contract.

The contract was originally executed by Nassau County on March 5, 2012, as amended on June 19, 2014. This is a renewal or extension pursuant to the contract, or an amendment within the scope of the contract or RFP (copies of the relevant pages are attached). For the services provided under the original contract: An RFQ was issued and a panel was established. Lewis Johs Avallone Aviles, LLP was selected off of that panel based upon their experience, expertise and availability for the services provided under the original contract. Further, Lewis Johs Avallone Aviles, LLP had previous contracts with the County. For the services added under amendment # 1: A Request for Qualifications was issued and a panel established. Lewis Johs Avallone Aviles, LLP has been added to this panel. The firm Lewis Johs Avallone Aviles, LLP has been selected for the matter added under amendment # 1 after a review of the panel based on the firm's experience, expertise in the subject matter, and availability.

IV. ☐ Pursuant to Executive Order No. 1 of 1993, as amended, at least three proposals were solicited and received. The attached memorandum from the department head describes the proposals received, along with the cost of each proposal.

- ☐ A. The contract has been awarded to the proposer offering the lowest cost proposal; **OR:**
- ☐ B. The attached memorandum contains a detailed explanation as to the reason(s) why the contract was awarded to other than the lowest-cost proposer. The attachment includes a specific delineation of the unique skills and experience, the specific reasons why a proposal is deemed superior, and/or why the proposer has been judged to be able to perform more quickly than other proposers.

V. ☐ Pursuant to Executive Order No. 1 of 1993 as amended, the attached memorandum from the department head explains why the department did not obtain at least three proposals.

- ☐ A. There are only one or two providers of the services sought or less than three providers submitted proposals. The memorandum describes how the contractor was determined to be the sole source provider of the personal service needed or explains why only two proposals could be obtained. If two proposals were obtained, the memorandum explains that the contract was awarded to the lowest cost proposer, or why the selected proposer offered the higher quality proposal, the proposer's unique and special experience, skill, or expertise, or its availability to perform in the most immediate and timely manner.
- ☐ B. The memorandum explains that the contractor's selection was dictated by the terms of a federal or New York State grant, by legislation or by a court order. (Copies of the relevant documents are attached).
- ☐ C. Pursuant to General Municipal Law Section 104, the department is purchasing the services required through a New York State Office of General Services contract no. _____, and the attached memorandum explains how the purchase is within the scope of the terms of that contract.

- ☐ **D.** Pursuant to General Municipal Law Section 119-o, the department is purchasing the services required through an inter-municipal agreement.

VI. ☐ This is a human services contract with a not-for-profit agency for which a competitive process has not been initiated. Attached is a memorandum that explains the reasons for entering into this contract without conducting a competitive process, and details when the department intends to initiate a competitive process for the future award of these services. For any such contract, where the vendor has previously provided services to the county, attach a copy of the most recent evaluation of the vendor's performance. If the contractor has not received a satisfactory evaluation, the department must explain why the contractor should nevertheless be permitted to contract with the county.

In certain limited circumstances, conducting a competitive process and/or completing performance evaluations may not be possible because of the nature of the human services program, or because of a compelling need to continue services through the same provider. In those circumstances, attach an explanation of why a competitive process and/or performance evaluation is inapplicable.

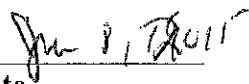
VII. ☐ This is a public works contract for the provision of architectural, engineering or surveying services. The attached memorandum provides details of the department's compliance with Board of Supervisors' Resolution No.928 of 1993, including its receipt and evaluation of annual Statements of Qualifications & Performance Data, and its negotiations with the most highly qualified firms.

In addition, if this is a contract with an individual or with an entity that has only one or two employees:

☐ a review of the criteria set forth by the Internal Revenue Service, *Revenue Ruling No. 87-41, 1987-1 C.B. 296*, attached as Appendix A to the Comptroller's Memorandum, dated February 13, 2004, concerning independent contractors and employees indicates that the contractor would not be considered an employee for federal tax purposes.



Department Head Signature



Date

NOTE: Any information requested above, or in the exhibit below, may be included in the county's "staff summary" form in lieu of a separate memorandum.

Compt. form Pers./Prof. Services Contracts: Rev. 02/04

AMENDMENT NO. 2

AMENDMENT (together with any appendices or exhibits hereto, this "Amendment") dated as of the date that this Amendment is executed by Nassau County (the "Effective Date"), between (i) Nassau County, a municipal corporation having its principal office at 1550 Franklin Avenue, Mineola, New York 11501 (the "County"), acting for and on behalf of the Office of the Nassau County Attorney, having its principal office at One West Street, Mineola, New York 11501 (the "Department"), and (ii) Lewis Johs Avallone Aviles, LLP, with an office located at One CA Plaza, Suite 225, Islandia, New York 11749 ("Counsel" or "Contractor").

W I T N E S S E T H:

WHEREAS, pursuant to County contract number CQAT11000032 between the County and Counsel, executed on behalf of the County on March 5, 2012, as amended by amendment one (1), County contract amendment number CLAT14000009, executed on behalf of the County on June 19, 2014 (the "Original Agreement"), Counsel provides legal services to the County in connection with litigation known as Robert J. Del Col, Esq. and Leftheris "Ted" Doukas v. County of Nassau, et al., Index No. 11-CV-5138-SJF-WDW, and represent Nassau County and/or such other party as the County may be required to defend in Randy A. Hoskins, aka Randy A. White v. County of Nassau, Nassau County Police Department, Commissioner of Police Thomas Dale, Chief of Detectives John Capece, Sgt. Sal Mistretta, Police Officers "John Does 1-10", Nassau County Jail and Sheriffs Department, Correction Officers "John Does 11-20", Elected and Appointed Officials "John Does 21-30", which services are more fully described in the Original Agreement (the services contemplated by the Original Agreement, the "Services"); and

WHEREAS, the term of the Original Agreement is from November 28, 2011 until completion of Services, unless sooner terminated in accordance with the provisions of the Original Agreement (the "Original Term"); and

WHEREAS, the maximum amount that the County agreed to reimburse Counsel for Services under the Original Agreement, as full compensation for the Services, was Three Hundred Fifty Thousand Dollars (\$350,000.00) (the "Maximum Amount"); and

WHEREAS, the County desires to increase the Maximum Amount.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Amendment, the parties agree as follows:

1. Maximum Amount. The Maximum Amount in the Original Agreement shall be increased by One Hundred Twenty-five Thousand Dollars (\$125,000.00) (the "Amendment Maximum Amount"), so that the maximum amount that the County shall pay to Counsel as full consideration for all Services provided under the Original Agreement, as amended by this Amendment (the "Amended Agreement"), shall be Four Hundred Seventy-five Thousand Dollars (\$475,000.00) (the "Amended Maximum Amount").

2. Partial Encumbrance. Counsel acknowledges that the County will partially encumber funds to be applied toward the Amendment Maximum Amount throughout the term of this Amended Agreement. The Contractor further acknowledges that the first


encumbrance shall be Fifty Thousand Dollars (\$50,000.00). Thereafter, the Department shall notify the Contractor of the availability of additional monies, which written notice shall include the amount encumbered. Such notification shall serve as notice to proceed.

3. Full Force and Effect. All the terms and conditions of the Original Agreement not expressly amended by this Amendment shall remain in full force and effect and govern the relationship of the parties for the term of the Amended Agreement.

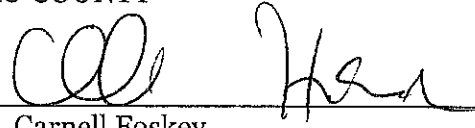
[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

LEWIS JOHS AVALONE AVILES, LLP

By: 
Name: Robert A. Avallone
Title: Managing Par.
Date: 4/23/18

NASSAU COUNTY

By: 
Name: Carnell Foskey
Title: County Attorney
Date: 6/8/18

NASSAU COUNTY

By: _____
Name: _____
Title: County Executive
☐ Deputy County Executive
Date: _____

PLEASE EXECUTE IN BLUE INK

STATE OF NEW YORK)
Suffolk)ss.:
COUNTY OF NASSAU)

On the 28th day of April in the year 2015 before me personally came Robert J. Avallone to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of Suffolk; that he or she is the Managing Partner of Lewis John Avallone Aviles LLP, the united liability partnership herein and which executed the above instrument; and that he or she signed his or her name thereto by authority of the board of directors of said corporation.


NOTARY PUBLIC

JANET MONTANO
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01MO4648213, SUFFOLK COUNTY
COMMISSION EXPIRES MARCH 30, 2017

STATE OF NEW YORK)
)ss.:
COUNTY OF NASSAU)

On the 8th day of JUNE in the year 2015 before me personally came Carnell Foskey to me personally known, who, being by me duly sworn, did depose and say that he resides in the County of Nassau; that he is County Attorney of the County of Nassau, the municipal corporation described herein and which executed the above instrument; and that he signed his name thereto pursuant to Section 1101 of the County Government Law of Nassau County.


NOTARY PUBLIC

DIANA CATAPANO
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01DA9030734
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES MAR. 31, 2019

STATE OF NEW YORK)
)ss.:
COUNTY OF NASSAU)

On the ____ day of _____ in the year 20__ before me personally came _____ to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of _____; that he or she is a Deputy County Executive of the County of Nassau, the municipal corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto pursuant to Section 205 of the County Government Law of Nassau County.

NOTARY PUBLIC

E-44-12
✓**Contract Details**

SERVICES: Special Counsel

NIFS ID #: CQAT11000032 NIFS Entry Date: 12/28/2011 Term: from 11/28/2011-Completion

New X Renewal <input type="checkbox"/>	1) Mandated Program:	Yes <input type="checkbox"/>	No X
Amendment <input type="checkbox"/>	2) Comptroller Approval Form Attached:	Yes X	No <input type="checkbox"/>
Time Extension <input type="checkbox"/>	3) CSEA Agmt. § 32 Compliance Attached:	Yes <input type="checkbox"/>	No X
Addl. Funds <input type="checkbox"/>	4) Vendor Ownership & Mgmt. Disclosure Attached:	Yes X	No <input type="checkbox"/>
Blanket Resolution <input type="checkbox"/>	5) Insurance Required	Yes X	No <input type="checkbox"/>
RES#			

Agency Information

Vendor		County Department	
Name Lewis Johs Avallone Aviles, LLP	Vendor ID# 113168894	Department Contact Daniel Gregware	
Address 425 Broad Hollow Road Melville, New York 11747	Contact Person Robert J. Avallone	Address 1 West St. Mineola, New York 11501	
	Phone (631) 755-0101	Phone (516) 571-1675	

Routing Slip

DATE Rec'd	DEPARTMENT	Internal Verification	DATE App'd & Exp'd	SIGNATURE	Leg. Approval Required
	Department	NIFS Entry (Dept) <input type="checkbox"/> NIFS Appvl (Dept. Head) <input checked="" type="checkbox"/>		<i>[Signature]</i>	
	OMB	NIFS Approval <input type="checkbox"/>	1/5/12	<i>[Signature]</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> Not required if blanket resolution
1/6/12	County Attorney	CA RE&I Verification <input checked="" type="checkbox"/>	1/6/12	<i>[Signature]</i>	
	County Attorney	CA Approval as to form <input type="checkbox"/>	1/6/12	<i>[Signature]</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
1/9/12	LEG	Legislative Affairs <input type="checkbox"/>	1/10/12	<i>[Signature]</i>	
	Rules <input type="checkbox"/> / Leg. <input type="checkbox"/>	<input type="checkbox"/>		<i>[Signature]</i>	
	County Attorney	NIFS Approval <input type="checkbox"/>	2/2/12	<i>[Signature]</i>	
	County Comptroller	NIFS Approval <input checked="" type="checkbox"/>	2/10/12	<i>[Signature]</i>	
	County Executive	Notarization Filed with Clerk of the Leg. <input type="checkbox"/>	2/25/12	<i>[Signature]</i>	

Contract Summary

Description: Legal Services
Purpose: Representing the County in Robert J. Del Col, Esq. and Leftheris "Ted" Doukas v. County of Nassau, et al.
Method of Procurement: An RFQ was issued and a panel was established. Lewis Johs Avallone Aviles, LLP was selected off of that panel based upon their experience, expertise and availability.
Procurement History: Lewis Johs Avallone Aviles, LLP is on the RFQ panel and had previous contracts with the County.
Description of General Provisions: As described above
Impact on Funding / Price Analysis: \$175,000.00
Change in Contract from Prior Procurement: N/A
Recommendation: approve as submitted

Advisement Information


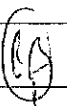
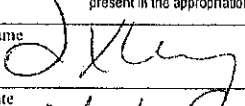
BUDGET CODES	
Fund:	GEN
Control:	AT
Resp:	1100
Object:	502
Transaction:	

FUNDING SOURCE	AMOUNT
Revenue Contract <input type="checkbox"/>	XXXXXXXX
County	\$175,000.00
Federal	\$
State	\$
Capital	\$
Other	\$
TOTAL	\$175,000.00

LINE	INDEX/OBJECT CODE	AMOUNT
1	ATGEN1100/DE502	\$175,000.00
2		\$
3		\$
4	<i>J. G. Gato 7/16/12</i>	\$
5		\$
6		\$
TOTAL		\$175,000.00

RENEWAL	
% Increase	
% Decrease	

Document Prepared By: _____ Date: _____

NIFS Certification	Comptroller Certification	County Executive Approval
I certify that this document was accepted into NIFS.	I certify that an unencumbered balance sufficient to cover this contract is present in the appropriation to be charged.	Name 
Name 	Name 	Date <i>1/25/12</i>
Date <i>2/13/12</i>	Date <i>2/10/12</i>	(For Office Use Only)
		E #:

LINK TO:

CURRENT YR BUDGET & OBLIGATION SUMMARY

3:17 PM

BALANCE (Y,M,Q,A) : Y
 FISCAL MO/YEAR : 13 2011 ADADJ2011
 INDEX :
 ORGANIZATION : AT COUNTY ATTORNEY
 CHARAC / OBJECT : X
 FDTP FUND SFND : GF GEN GEN GENERAL FUND
 PROJECT PROJ DTL :
 GRANT GRANT DTL :
 UCODE/ORD#/DRC :

S	OBJECT DESCRIPTION	ORIG BUDGT	CUR BUDGET	CUR OBLIG	CUR BALANCE
AA	SALARIES,	11,116,061	10,616,061	9,492,645	1,123,416
BB	EQUIPMENT	15,000	15,000	2,186	12,814
DD	GENERAL EX	742,279	742,279	426,793	315,486
DE	CONTRACTUA	2,000,000	8,800,000	7,654,884	1,145,116
	EXP TOTAL	13,873,340	20,173,340	17,576,508	2,596,832
	REV - EXP	-11,090,268	-17,390,268	-14,239,432	3,150,836

F1-HELP

F2-SELECT

F4-PRIOR

F5-NEXT

F7-PRIOR PG

F8-NEXT PG

F9-LINK

G012 - NEXT PAGE DISPLAYED

LINK TO:

VENDOR SUMMARY

3:28 PM

ACTIVE

FISCAL MO/YEAR : 13 2011

VENDOR NUMBER : 111108894

DEWIS JOHN AVALLOONE AVILES, LLP

VENDOR ALPHA :

S	VENDOR SUMMARY	ADADJ2011	ANNUAL BALANCE	ALL YEARS BALANCE
	ENCUMBRANCES	.00	-4,043.75	956.25
	RETAINAGES	.00	.00	.00
	ACCRUALS	.00	.00	.00
	PAYMENTS	.00	4,043.75	4,043.75
	CASH RECEIPTS	.00	.00	.00
	ACCT RECVABLE	.00	.00	.00
	1099 TOTALS	.00	4,043.75	4,043.75
	B/U WITHHOLDING	.00	.00	.00
	B/U WITH PAID	.00	.00	.00
	TX LIEN W/HELD	.00	.00	.00
	TAX LIENS PAID	.00	.00	.00
	ST BCKUP W/HOLD	.00	.00	.00
	ST BU W/H PAID	.00	.00	.00

F1-HELP

F2-SELECT

F9-LINK

F4-PRIOR

F5-NEXT

G014 - RECORD FOUND

LINK TO:

VENDOR SUMMARY

3:28 PM

ACTIVE

FISCAL MO/YEAR : 02 2012

VENDOR NUMBER : 113168894

LEWIS JOHS AVALLONE AVILES, LLP

VENDOR ALPHA :

S	VENDOR SUMMARY	FEB 2012	ANNUAL BALANCE	ALL YEARS BALANCE
	ENCUMBRANCES	175,000.00	175,000.00	175,956.25
	RETAINAGES	.00	.00	.00
	ACCRUALS	.00	.00	.00
	PAYMENTS	.00	.00	4,043.75
	CASH RECEIPTS	.00	.00	.00
	ACCT RECVABLE	.00	.00	.00
	1099 TOTALS			
	B/U WITHHOLDING			
	B/U WITH PAID			
	TX LIEN W/HELD	.00	.00	.00
	TAX LIENS PAID	.00	.00	.00
	ST BCKUP W/HOLD	.00	.00	.00
	ST BU W/H PAID	.00	.00	.00

F1-HELP F2-SELECT

F4-PRIOR

F5-NEXT

F9-LINK

G014 - RECORD FOUND

SEAL OF THE COUNTY OF NASSAU

RULES RESOLUTION NO. 43 2012

E-44-12

A RESOLUTION AFFIRMING TO A SPECIAL COUNSEL
CONTRACT ENTERED INTO BY THE COUNTY ATTORNEY AND
LEWIS JOHS AVALLONE AVILES, LLP

Passed by the Rules Committee
Nassau County Legislature
By Voice Vote on 2/6/12
VOTING:
ayes 4 nays 3 abstained 0 recused 0
Legislators present: 7

WHEREAS, the County Attorney has executed a special counsel
agreement with Lewis Johs Avallone Aviles, LLP, a copy of which is on file
with the Clerk of the Legislature; now, therefore, be it

RESOLVED, notwithstanding Nassau County Charter Section 1101,
the Rules Committee of the Nassau County Legislature affirms the special
counsel contract entered into by the County Attorney and Lewis Johs
Avallone Aviles, LLP.

RULES RESOLUTION NO. – 2012

A RESOLUTION AFFIRMING TO A SPECIAL COUNSEL
CONTRACT ENTERED INTO BY THE COUNTY ATTORNEY AND
LEWIS JOHS AVALLONE AVILES, LLP

WHEREAS, the County Attorney has executed a special counsel agreement with Lewis Johs Avallone Aviles, LLP, a copy of which is on file with the Clerk of the Legislature; now, therefore, be it

RESOLVED, notwithstanding Nassau County Charter Section 1101, the Rules Committee of the Nassau County Legislature affirms the special counsel contract entered into by the County Attorney and Lewis Johs Avallone Aviles, LLP.

George Maragos
Comptroller



OFFICE OF THE COMPTROLLER
240 Old Country Road
Mineola, New York 11501

COMPTROLLER APPROVAL FORM FOR PERSONAL, PROFESSIONAL OR HUMAN SERVICES CONTRACTS

Attach this form along with all personal, professional or human services contracts, contract renewals, extensions and amendments.

CONTRACTOR NAME: Lewis Johs Avallone Aviles, LLP

CONTRACTOR ADDRESS: 425 Broad Hollow Road, Melville, New York 11747

FEDERAL TAX ID #: 113168894

Instructions: Please check the appropriate box ("☑") after one of the following roman numerals, and provide all the requested information.

I. ☐ The contract was awarded to the lowest, responsible bidder after advertisement for sealed bids. The contract was awarded after a request for sealed bids was published in _____ [newspaper] on _____ [date]. The sealed bids were publicly opened on _____ [date]. _____ [#] of sealed bids were received and opened.

II. ☐ The contractor was selected pursuant to a Request for Proposals.

The Contract was entered into after a written request for proposals was issued on _____ [date]. Potential proposers were made aware of the availability of the RFP by _____ [newspaper advertisement, posting on website, mailing, etc.]. _____ [#] of potential proposers requested copies of the RFP. Proposals were due on _____ [date]. _____ [#] proposals were received and evaluated. The evaluation committee consisted of: _____

_____ [list members]. The proposals were scored and ranked. As a result of the scoring and ranking (attached), the highest-ranking proposer was selected.

III. ☐ This is a renewal, extension or amendment of an existing contract.

The contract was originally executed by Nassau County on _____ [date]. This is a renewal or extension pursuant to the contract, or an amendment within the scope of the contract or RFP (copies of the relevant pages are attached). The original contract was entered into after _____

[describe procurement method, i.e., RFP, three proposals evaluated, etc.] Attach a copy of the most recent evaluation of the contractor's performance for any contract to be renewed or extended. If the contractor has not received a satisfactory evaluation, the department must explain why the contractor should nevertheless be permitted to continue to contract with the county.

IV. ☐ Pursuant to Executive Order No. 1 of 1993, as amended, at least three proposals were solicited and received. The attached memorandum from the department head describes the proposals received, along with the cost of each proposal.

☐ A. The contract has been awarded to the proposer offering the lowest cost proposal; **OR:**

X B. An RFQ was issued and a panel was established. Lewis Johs Avallone Aviles, LLP was selected off of that panel based upon their experience, expertise and availability.

V. ☐ Pursuant to Executive Order No. 1 of 1993 as amended, the attached memorandum from the department head explains why the department did not obtain at least three proposals.

☐ A. There are only one or two providers of the services sought or less than three providers submitted proposals. The memorandum describes how the contractor was determined to be the sole source provider of the personal service needed or explains why only two proposals could be obtained. If two proposals were obtained, the memorandum explains that the contract was awarded to the lowest cost proposer, or why the selected proposer offered the higher quality proposal, the proposer's unique and special experience, skill, or expertise, or its availability to perform in the most immediate and timely manner.

☐ B. The memorandum explains that the contractor's selection was dictated by the terms of a federal or New York State grant, by legislation or by a court order. (Copies of the relevant documents are attached).

☐ C. Pursuant to General Municipal Law Section 104, the department is purchasing the services required through a New York State Office of General Services contract no. _____, and the attached memorandum explains how the purchase is within the scope of the terms of that contract.

☐ D. Pursuant to General Municipal Law Section 119-o, the department is purchasing the services required through an inter-municipal agreement.

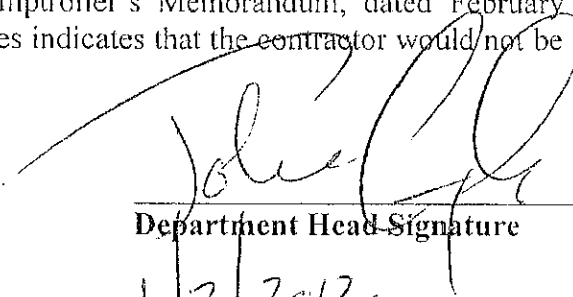
VI. ☐ This is a human services contract with a not-for-profit agency for which a competitive process has not been initiated. Attached is a memorandum that explains the reasons for entering into this contract without conducting a competitive process, and details when the department intends to initiate a competitive process for the future award of these services. For any such contract, where the vendor has previously provided services to the county, attach a copy of the most recent evaluation of the vendor's performance. If the contractor has not received a satisfactory evaluation, the department must explain why the contractor should nevertheless be permitted to contract with the county.

In certain limited circumstances, conducting a competitive process and/or completing performance evaluations may not be possible because of the nature of the human services program, or because of a compelling need to continue services through the same provider. In those circumstances, attach an explanation of why a competitive process and/or performance evaluation is inapplicable.

VII. ☐ This is a public works contract for the provision of architectural, engineering or surveying services. The attached memorandum provides details of the department's compliance with Board of Supervisors' Resolution No.928 of 1993, including its receipt and evaluation of annual Statements of Qualifications & Performance Data, and its negotiations with the most highly qualified firms.

In addition, if this is a contract with an individual or with an entity that has only one or two employees:

☐ a review of the criteria set forth by the Internal Revenue Service, *Revenue Ruling No. 87-41, 1987-1 C.B. 296*, attached as Appendix A to the Comptroller's Memorandum, dated February 13, 2004, concerning independent contractors and employees indicates that the contractor would not be considered an employee for federal tax purposes.



Department Head Signature

12/2012

Date

NOTE: Any information requested above, or in the exhibit below, may be included in the county's "staff summary" form in lieu of a separate memorandum.

Compt. form Pers./Prof. Services Contracts: Rev. 02/04

GUIDELINES FOR DISCLOSURE

The County Legislature requires the following information prior to consideration:

- Names and business addresses and telephone numbers of all Principals.

The term "Principal" means a stockholder, officer, director, partner, member, or other controlling person of a business or entity including the following: a corporation, professional service corporation, joint stock company, general or limited partnership, limited association, limited liability company (including a professional service limited liability company), foreign liability company (including a foreign professional service limited liability company), joint venture, real estate investment trust, business trust or other trust, or sole proprietorship.

If an entity is traded on a public exchange then the above disclosure is not required, but a copy of the disclosure required by the SEC must accompany the proposed resolution together with a statement by the petitioner or its attorney that the company is publicly traded.

The Principals of Lewis Johs Avallone Aviles, LLP are:

William J. Lewis, 425 Broad Hollow Road, Suite 400, Melville, New York, 11747; 631.755.0101

Frederick C. Johs, 425 Broad Hollow Road, Suite 400, Melville, New York, 11747; 631.755.0101

Robert J. Avallone, 425 Broad Hollow Road, Suite 400, Melville, New York, 11747; 631.755.0101

Deborah A. Aviles, 425 Broad Hollow Road, Suite 400, Melville, New York, 11747; 631.755.0101

Thomas J. Dargan, 425 Broad Hollow Road, Suite 400, Melville, New York, 11747; 631.755.0101

SPECIAL COUNSEL AGREEMENT

THIS AGREEMENT, (together with the schedules, appendices, attachments and exhibits, if any, this "Agreement"), dated as of the date (the "Effective Date") that this Agreement is executed by Nassau County, is entered into by and between (i) Nassau County, a municipal corporation having its principal office at 1550 Franklin Avenue, Mineola, New York 11501 (the "County"), acting for and on behalf of the County Attorney, having its principal office at One West Street, Mineola, New York 11501 (the "Department"), and (ii) Lewis John Avallone Aviles, LLP, with an office located at 425 Broad Hollow Road, Melville, New York 11747 ("Counsel" or "Contractor").

WITNESSETH:

WHEREAS, the County is currently involved in litigation known as Robert J. Del Col, Esq. and Leftheris "Ted" Doukas v. County of Nassau, et al., under case number 11-CV-5138-SJF-WDW; and

WHEREAS, pursuant to Nassau County Charter Section 1101, the County Attorney has determined the need for the employment of special counsel; and

WHEREAS, the County desires to hire Counsel to perform the services described in this Agreement; and

WHEREAS, Counsel is eminently qualified and ready to provide the necessary services; and

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement, the parties agree as follows:

1. Term. This Agreement shall commence on November 28, 2011 and shall terminate upon completion of services, as hereinafter described, unless sooner terminated in accordance with the provisions of this Agreement.

2. Services. The services to be provided by Counsel under this Agreement shall consist of representing Nassau County and all Nassau County employee defendants in their individual and official capacities, in litigation entitled Robert J. Del Col, Esq. and Leftheris "Ted" Doukas v. County of Nassau, et al., under case number 11-CV-5138-SJF-WDW ("Services"). Except as otherwise provided in this Agreement, such Services shall conclude no earlier than entry of a verdict or a settlement or of a court-order terminating the litigation.

3. Payment. (a)(1) Amount of Consideration. The amount to be paid to Counsel as full consideration for Counsel's Services for at least during the initial stages of representation under this Agreement, including disbursements, shall not exceed the sum of One Hundred Seventy-five Thousand Dollars (\$175,000.00) ("Maximum Amount"). Compensation for professional services shall be paid at an hourly rate according to the following fee schedule:

	<u>In-Court Time</u>	<u>Out-of Court Time</u>
(i) Partner and counsel	\$225.00	\$215.00
(ii) Associate	\$170.00	\$165.00
(iii) Paralegal	\$90.00	\$90.00

(a)(2) Any appearances before the County Legislature, or any committee thereof for the purpose of the approval of this Agreement or any amendment thereto, are to be construed as part of the fee negotiation and approval process and Counsel agrees that no fee will be charged for

any such appearances.

(b) Vouchers; Voucher Review, Approval and Audit. Payment shall be made to Counsel in arrears and shall be contingent upon (i) Counsel submitting a claim voucher (the "Voucher") in a form satisfactory to the County, that (a) is accompanied by a contemporaneous record of hours billed stating the person(s) performing the Services and indicating with reasonable specificity, the Services provided and the payment requested in consideration for such Services, or contains a detailed, itemized list of allowable expenses; (b) certifies that the Services rendered and the payment requested are in accordance with this Agreement, and (c) is accompanied by documentation satisfactory to the County supporting the amount claimed, and upon (ii) review, approval and audit of the Voucher by the Department and/or the County Comptroller or his or her duly designated representative (the "Comptroller").

(c) Timing of Payment Claims. Counsel shall submit its claim no later than three (3) months following the County's receipt of the services that are the subject of the claim, and no more frequently than once a month.

(d) Expenses and Disbursement. Counsel shall be compensated within the Maximum Amount for all reasonable expenses and disbursements actually incurred, including but not limited to out-of-pocket disbursements for expert costs, messengers, investigators, trial preparation services and other legitimate expenses. Counsel shall obtain prior written approval from the County Attorney or his designee for all non-routine expenses and disbursements or any expense or disbursement not listed in this paragraph.

(e) Payments in Connection with Termination or Notice of Termination. Unless a provision of this Agreement expressly states otherwise, payments to Counsel following the termination of this Agreement shall not exceed payments made as consideration for services that were (i) performed prior to termination, (ii) authorized by this Agreement to be performed, and (iii) not performed after Counsel received notice that the County did not desire to receive such services.

4. Independent Contractor. Counsel is an independent contractor of the County. Counsel shall not, nor shall any officer, director, employee, servant, agent or independent contractor of Counsel (a "Counsel Agent"), be (i) deemed a County employee, (ii) commit the County to any obligation, or (iii) hold itself, himself, or herself out as a County employee or Person with the authority to commit the County to any obligation. As used in this Agreement the word "Person" means any individual person, entity (including partnerships, corporations and limited liability companies), and government or political subdivision thereof (including agencies, bureaus, offices and departments thereof).

5. No Arrears or Default. Counsel is not in arrears to the County upon any debt or contract and it is not in default as surety, contractor, or otherwise upon any obligation to the County, including any obligation to pay taxes to, or perform services for or on behalf of, the County.

6. Compliance with Law. (a) Generally. Counsel shall comply with any and all applicable Federal, State and local Laws, including, but not limited to those relating to conflicts of interest, human rights, a living wage, disclosure of information and vendor registration in connection with its performance under this Agreement. In furtherance of the foregoing, Counsel is bound by and shall comply with the terms of Appendix EE attached hereto and with the County's registration protocol. As used in this Agreement the word "Law" includes any and all statutes, local laws, ordinances, rules, regulations, applicable orders, and/or decrees, as the same may be amended from time to time,

enacted, or adopted.

(b) Nassau County Living Wage Law. Pursuant to LL 1-2006, as amended, and to the extent that a waiver has not been obtained in accordance with such law or any rules of the County Executive, Counsel agrees as follows:

- (i) Counsel shall comply with the applicable requirements of the Living Wage Law, as amended;
- (ii) Failure to comply with the Living Wage Law, as amended, may constitute a material breach of this Agreement, the occurrence of which shall be determined solely by the County. Counsel has the right to cure such breach within thirty days of receipt of notice of breach from the County. In the event that such breach is not timely cured, the County may terminate this Agreement as well as exercise any other rights available to the County under applicable law.
- (iii) It shall be a continuing obligation of Counsel to inform the County of any material changes in the content of its certification of compliance attached to this Agreement as Appendix L, and shall provide to the County any information necessary to maintain the certification's accuracy.

(c) Records Access. The parties acknowledge and agree that all records, information, and data ("Information") acquired in connection with performance or administration of this Agreement shall be used and disclosed solely for the purpose of performance and administration of the contract or as required by law. Counsel acknowledges that Counsel Information in the County's possession may be subject to disclosure under Article 6 of the New York State Public Officer's Law ("Freedom of Information Law" or "FOIL"). In the event that such a request for disclosure is made, the County shall make reasonable efforts to notify Counsel of such request prior to disclosure of the Information so that the Counsel may take such action as it deems appropriate.

7. Ownership of Records. All County Information provided to Counsel by the County shall remain the property of the County. All reports, documents or information created by Counsel on behalf of the County shall be deemed the property of the County. Upon the County's request, completion of Services, or termination of this Agreement, all such County Information, reports, documents or information shall be returned to the County.

8. Service Standards. Regardless of whether required by Law: (a) Counsel shall, and shall cause Counsel Agents to, conduct his or her activities in connection with this Agreement so as not to endanger or harm any Person or property.

(b) Counsel shall deliver Services under this Agreement in a professional manner consistent with the best practices of the legal profession. Counsel shall take all actions necessary or appropriate to meet the obligation described in the immediately preceding sentence, including obtaining and maintaining, and causing all Counsel Agents to obtain and maintain, all approvals, licenses, and certifications ("Approvals") necessary or appropriate in connection with this Agreement.

9. No Conflict Representation. During the term of this Agreement, Counsel shall not represent any party whose interest is or may be adverse to or in conflict with, or whose interest may appear to be adverse to or in conflict with the County, nor shall it commence any action or proceeding, or act as Counsel in any action or proceeding that is adverse to the County or any County officer or employee, without the County's prior written consent.

10. Indemnification; Defense; Cooperation. (a) Counsel shall indemnify, defend and hold harmless the County, the Department and its officers, employees, and agents (the "Indemnified Parties") from and against any and all liabilities arising out of or in connection with performance under this Agreement by Counsel or a Counsel Agent, provided, however, that the Counsel shall not be responsible for that portion, if any, of a Loss that is caused by the negligence of the County.

(b) Counsel shall, upon the County's demand and at the County's direction, promptly and diligently defend, at Counsel's own risk and expense, any and all suits, actions, or proceedings which may be brought or instituted against one or more Indemnified Parties for which Counsel is responsible under this Section, and, further to Counsel's indemnification obligations, Counsel shall pay and satisfy any judgment, decree, loss or settlement in connection therewith.

(c) Counsel shall, and shall cause Counsel Agents to, cooperate with the County and the Department in connection with the investigation, defense or prosecution of any action, suit or proceeding in connection with this Agreement, including the acts or omissions of Counsel and/or a Counsel Agent in connection with this Agreement.

(d) The provisions of this Section shall survive the termination of this Agreement.

11. Insurance. (a) Types and Amounts. Counsel shall obtain and maintain throughout the term of this Agreement, at its own expense: (i) one or more policies for commercial general liability insurance, which policy(ies) shall name "Nassau County" as an additional insured and have a minimum single combined limit of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate coverage, (ii) if contracting in whole or part to provide professional services, one or more policies for professional liability insurance, which policy(ies) shall have a minimum single combined limit of liability of not less than One Million Dollars (\$1,000,000.00) per claim (iii) compensation insurance for the benefit of the Counsel's employees ("Workers' Compensation Insurance"), which insurance is in compliance with the New York State Workers' Compensation Law, and (iv) such additional insurance as the County may from time to time specify.

(b) Acceptability; Deductibles; Subcontractors. All insurance obtained and maintained by Counsel pursuant to this Agreement shall be (i) written by one or more commercial insurance carriers licensed to do business in New York State and acceptable to the County, and which is (ii) in form and substance acceptable to the County. Counsel shall be solely responsible for the payment of all deductibles to which such policies are subject. Counsel shall require any subcontractor hired in connection with this Agreement to carry insurance with the same limits and provisions required to be carried by Counsel under this Agreement.

(c) Delivery; Coverage Change; No Inconsistent Action. Prior to the execution of this Agreement, copies of current certificates of insurance evidencing the insurance coverage required by this Agreement shall be delivered to the Department. Not less than thirty (30) days prior to the date of any expiration or renewal of, or actual, proposed or threatened reduction or cancellation of

coverage under, any insurance required hereunder, Counsel shall provide written notice to the Department of the same and deliver to the Department renewal or replacement certificates of insurance. Counsel shall cause all insurance to remain in full force and effect throughout the term of this Agreement and shall not take or omit to take any action that would suspend or invalidate any of the required coverages. The failure of Counsel to maintain Workers' Compensation Insurance shall render this contract void and of no effect. The failure of Counsel to maintain the other required coverages shall be deemed a material breach of this Agreement upon which the County reserves the right to consider this Agreement terminated as of the date of such failure.

12. Assignment; Amendment; Waiver; Subcontracting. This Agreement and the rights and obligations hereunder may not be in whole or part (i) assigned, transferred or disposed of, (ii) amended, (iii) waived, or (iv) subcontracted, without the prior written consent of the County Executive or his or her duly designated deputy (the "County Executive"), and any purported assignment, other disposal or modification without such prior written consent shall be null and void. The failure of a party to assert any of its rights under this Agreement, including the right to demand strict performance, shall not constitute a waiver of such rights.

13. Termination. (a) Generally. This Agreement may be terminated (i) for any reason by the County upon thirty (30) days' written notice to Counsel, (ii) for "Cause" by the County immediately upon the receipt by Counsel of written notice of termination, (iii) upon mutual written Agreement of the County and the Counsel, and (iv) in accordance with any other provisions of this Agreement expressly addressing termination.

As used in this Agreement the word "Cause" includes: (i) a breach of this Agreement; (ii) the failure to obtain and maintain in full force and effect all Approvals required for the services described in this Agreement to be legally and professionally rendered; and (iii) the termination or impending termination of federal or state funding for the services to be provided under this Agreement.

(b) By Counsel. This Agreement may be terminated by Counsel if performance becomes impracticable through no fault of the Counsel, where the impracticability relates to Counsel's ability to perform its obligations and not to a judgment as to convenience or the desirability of continued performance. Termination under this subsection shall be effected by Counsel delivering to the commissioner or other head of the Department (the "Commissioner"), at least sixty (60) days prior to the termination date (or a shorter period if sixty days' notice is impossible), a notice stating (i) that Counsel is terminating this Agreement in accordance with this subsection, (ii) the date as of which this Agreement will terminate, and (iii) the facts giving rise to the Counsel's right to terminate under this subsection. A copy of the notice given to the Commissioner shall be given to the Deputy County Executive who oversees the administration of the Department (the "Applicable DCE") on the same day that notice is given to the Commissioner.

(c) Counsel Assistance upon Termination. In connection with the termination or impending termination of this Agreement the Counsel shall, regardless of the reason for termination, take all actions reasonably requested by the County (including those set forth in other provisions of this Agreement) to assist the County in transitioning Counsel's responsibilities under this Agreement. The provisions of this subsection shall survive the termination of this Agreement.

14. Accounting Procedures; Records. Counsel shall maintain and retain, for a period of six (6) years following the later of termination of or final payment under this Agreement, complete and accurate records, documents, accounts and other evidence, whether maintained electronically or

manually ("Records"), pertinent to performance under this Agreement. Records shall be maintained in accordance with Generally Accepted Accounting Principles or such other standard accounting principles that are acceptable within the industry and, if Counsel is a non-profit entity, must comply with the accounting guidelines set forth in the federal Office of Management & Budget Circular A-122, "Cost Principles for Non-Profit Organizations." Such Records shall at all times be available for audit and inspection by the Comptroller, the Department, any other governmental authority with jurisdiction over the provision of services hereunder and/or the payment therefore, and any of their duly designated representatives. The provisions of this Section shall survive the termination of this Agreement.

15. Limitations on Actions and Special Proceedings against the County. No action or special proceeding shall lie or be prosecuted or maintained against the County upon any claims arising out of or in connection with this Agreement unless:

(a) Notice. At least thirty (30) days prior to seeking relief, Counsel shall have presented the demand or claim(s) upon which such action or special proceeding is based in writing to the Applicable DCE for adjustment and the County shall have neglected or refused to make an adjustment or payment on the demand or claim for thirty (30) days after presentment. Counsel shall send or deliver copies of the documents presented to the Applicable DCE under this Section to each of (i) the Department and the (ii) the County Attorney (at the address specified above for the County) on the same day that documents are sent or delivered to the Applicable DCE. The complaint or necessary moving papers of Counsel shall allege that the above-described actions and inactions preceded Counsel's action or special proceeding against the County.

(b) Time Limitation. Such action or special proceeding is commenced within the earlier of (i) one (1) year of the first to occur of (A) final payment under or the termination of this Agreement, and (B) the accrual of the cause of action, and (ii) the time specified in any other provision of this Agreement.

16. Work Performance Liability. The Counsel is and shall remain primarily liable for the successful completion of all work in accordance this Agreement irrespective of whether the Counsel is using a Counsel Agent to perform some or all of the work contemplated by this Agreement, and irrespective of whether the use of such Counsel Agent has been approved by the County.

17. Consent to Jurisdiction and Venue; Governing Law. Unless otherwise specified in this Agreement or required by Law, exclusive original jurisdiction for all claims or actions with respect to this Agreement shall be in the Supreme Court in Nassau County in New York State and the parties expressly waive any objections to the same on any grounds, including venue and forum non conveniens. This Agreement is intended as a contract under, and shall be governed and construed in accordance with, the Laws of New York State, without regard to the conflict of laws provisions thereof.

18. Notices. Any notice, request, demand or other communication required to be given or made in connection with this Agreement shall be (a) in writing, (b) delivered or sent (i) by hand delivery, evidenced by a signed, dated receipt, (ii) postage prepaid via certified mail, return receipt requested, or (iii) overnight delivery via a nationally recognized courier service, (c) deemed given or made on the date the delivery receipt was signed by a County employee, three (3) business days after it is mailed or one (1) business day after it is released to a courier service, as applicable; and (d)(i) if to the Department, to the attention of the Commissioner at the address specified above for the Department, (ii) if to an Applicable DCE, to the attention of the Applicable DCE (whose name

Counsel shall obtain from the Department) at the address specified above for the County, (iii) if to the Comptroller, to the attention of the Comptroller at 240 Old Country Road, Mineola, NY 11501, and (iv) if to Counsel, to the attention of the person who executed this Agreement on behalf of Counsel at the address specified above for Counsel, or in each case to such other persons or addresses as shall be designated by written notice.

19. All Legal Provisions Deemed Included; Severability; Supremacy. (a) Every provision required by Law to be inserted into or referenced by this Agreement is intended to be a part of this Agreement. If any such provision is not inserted or referenced or is not inserted or referenced in correct form then (i) such provision shall be deemed inserted into or referenced by this Agreement for purposes of interpretation and (ii) upon the application of either party this Agreement shall be formally amended to comply strictly with the Law, without prejudice to the rights of either party.

(b) In the event that any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(c) Unless the application of this subsection will cause a provision required by Law to be excluded from this Agreement, in the event of an actual conflict between the terms and conditions set forth above the signature page to this Agreement and those contained in any schedule, exhibit, appendix, or attachment to this Agreement, the terms and conditions set forth above the signature page shall control. To the extent possible, all the terms of this Agreement should be read together as not conflicting.

(d) Each party has cooperated in the negotiation and preparation of this Agreement. Therefore, in the event that construction of this Agreement occurs, it shall not be construed against either party as drafter.

20. Section and Other Headings. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

21. Administrative Service Charge. Counsel agrees to pay the County an administrative service charge of Five Hundred Thirty-three Dollars (\$533.00) for the processing of this Agreement pursuant to Ordinance Number 74-1979, as amended by Ordinance Number 201-2001. The administrative service charge shall be due and payable to the County by Counsel upon signing this Agreement.

22. Executory Clause. Notwithstanding any other provision of this Agreement:

(a) Approval and Execution. The County shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person unless (i) all requisite County approvals have been obtained, including, if required, approval by the County Legislature and (ii) this Agreement has been executed by the County Executive (as defined in this Agreement).

(b) Availability of Funds. The County shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person beyond funds appropriated or otherwise lawfully available for this Agreement, and, if any portion of the funds for this Agreement are from the state and/or federal governments, then beyond funds available to the


County from the state and/or federal governments.

23. Entire Agreement. This Agreement represents the full and entire understanding and agreement between the parties with regard to the subject matter hereof and supersedes all prior agreements (whether written or oral) of the parties relating to the subject matter of this Agreement.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, Counsel and the County have executed this Agreement as of the Effective Date.

LEWIS JOHS AVALLONE AVILES, LLP

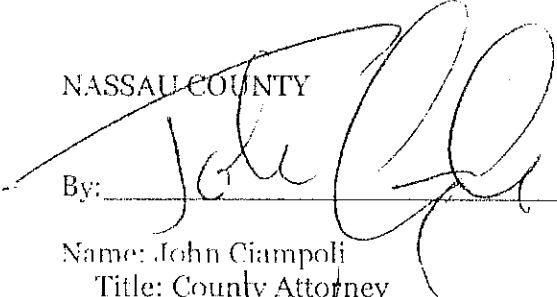
By: 

Name: Robert J. Avallo

Title: Managing Partner

Date: 12/20/11

NASSAU COUNTY

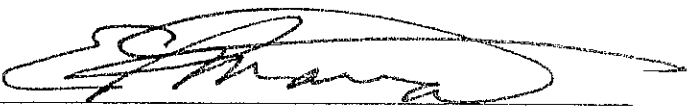
By: 

Name: John Ciampoli

Title: County Attorney

Date: 1/2/2012

NASSAU COUNTY

By: 

Name: Edward P. Mangano

Title: County Executive

~~County Executive~~
Date: 3/5/12

PLEASE EXECUTE IN BLUE INK

STATE OF NEW YORK)
)ss.:
COUNTY OF NASSAU)

On the 20th day of December in the year 2011 before me personally came Robert J. Avalone to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of Suffolk; that he or she is the Managing Partner of Lewis John Avalone Aviles LLP, the corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto by authority of the board of directors of said corporation.

Jessica Colangelo
NOTARY PUBLIC

JESSICA COLANGELO
NOTARY PUBLIC, State of New York
Registration No. 01C05087310
Qualified in Nassau County
Commission Expires: November 3, 2013

STATE OF NEW YORK)
)ss.:
COUNTY OF NASSAU)

On the 2nd day of January in the year 2012 before me personally came John Ciampoli to me personally known, who, being by me duly sworn, did depose and say that he resides in the County of Nassau; that he is the **County Attorney for the County of Nassau**, the municipal corporation described herein and which executed the above instrument; and that he signed his name thereto pursuant to Law, including Nassau County Charter Section 1101.

Martin E. Valk
NOTARY PUBLIC

MARTIN E. VALK
Notary Public, State of New York
No. 24-4959469
Qualified in Kings County
Certificate Filed in Nassau County
Commission Expires Nov. 27, 2015

STATE OF NEW YORK)
)ss.:
COUNTY OF NASSAU)

On the 5 day of March in the year 2012 before me personally came Edward P. Mangano to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of Nassau; that he or she is a **County Executive of the County of Nassau**, the municipal corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto pursuant to Section 205 of the County Government Law of Nassau County.

Doreen R. Pennica
NOTARY PUBLIC

DOREEN R. PENNICA
NOTARY PUBLIC
STATE OF NEW YORK
COMMISSION NO. 01FES170832
EXPIRES 12/31/15

Appendix EE

Equal Employment Opportunities for Minorities and Women

The provisions of this Appendix EE are hereby made a part of the document to which it is attached.

The Contractor shall comply with all federal, State and local statutory and constitutional anti-discrimination provisions. In addition, Local Law No. 14-2002, entitled "Participation by Minority Group Members and Women in Nassau County Contracts," governs all County Contracts as defined herein and solicitations for bids or proposals for County Contracts. In accordance with Local Law 14-2002:

(a) The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status in recruitment, employment, job assignments, promotions, upgradings, demotions, transfers, layoffs, terminations, and rates of pay or other forms of compensation. The Contractor will undertake or continue existing programs related to recruitment, employment, job assignments, promotions, upgradings, transfers, and rates of pay or other forms of compensation to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

(b) At the request of the County contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such employment agency, labor union, or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(c) The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the County Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The Contractor shall make best efforts to solicit active participation by certified minority or women-owned business enterprises ("Certified M/WBEs") as defined in Section 101 of Local Law No. 14-2002, for the purpose of granting of Subcontracts.

(e) The Contractor shall, in its advertisements and solicitations for Subcontractors, indicate its interest in receiving bids from Certified M/WBEs and the requirement that Subcontractors must be equal opportunity employers.

(f) Contractors must notify and receive approval from the respective Department Head prior to issuing any Subcontracts and, at the time of requesting such authorization, must submit a signed Best Efforts Checklist.

- (g) Contractors for projects under the supervision of the County's Department of Public Works shall also submit a utilization plan listing all proposed Subcontractors so that, to the greatest extent feasible, all Subcontractors will be approved prior to commencement of work. Any additions or changes to the list of subcontractors under the utilization plan shall be approved by the Commissioner of the Department of Public Works when made. A copy of the utilization plan any additions or changes thereto shall be submitted by the Contractor to the Office of Minority Affairs simultaneously with the submission to the Department of Public Works.
- (h) At any time after Subcontractor approval has been requested and prior to being granted, the contracting agency may require the Contractor to submit Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises. In addition, the contracting agency may require the Contractor to submit such documentation at any time after Subcontractor approval when the contracting agency has reasonable cause to believe that the existing Best Efforts Checklist may be inaccurate. Within ten working days (10) of any such request by the contracting agency, the Contractor must submit Documentation.
- (i) In the case where a request is made by the contracting agency or a Deputy County Executive acting on behalf of the contracting agency, the Contractor must, within two (2) working days of such request, submit evidence to demonstrate that it employed Best Efforts to obtain Certified M/WBE participation through proper documentation.
- (j) Award of a County Contract alone shall not be deemed or interpreted as approval of all Contractor's Subcontracts and Contractor's fulfillment of Best Efforts to obtain participation by Certified M/WBEs.
- (k) A Contractor shall maintain Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises for a period of six (6) years. Failure to maintain such records shall be deemed failure to make Best Efforts to comply with this Appendix EE, evidence of false certification as M/WBE compliant or considered breach of the County Contract.
- (l) The Contractor shall be bound by the provisions of Section 109 of Local Law No. 14-2002 providing for enforcement of violations as follows:

- a. Upon receipt by the Executive Director of a complaint from a contracting agency that a County Contractor has failed to comply with the provisions of Local Law No. 14-2002, this Appendix EE or any other contractual provisions included in furtherance of Local Law No. 14-2002, the Executive Director will try to resolve the matter.
- b. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the Executive Director shall refer the matter, within thirty days (30) of receipt of the complaint, to the American Arbitration Association for proceeding thereon.
- c. Upon conclusion of the arbitration proceedings, the arbitrator shall submit to the Executive Director his recommendations regarding the imposition of sanctions, fines or penalties. The Executive Director shall either (i) adopt the recommendation of the arbitrator (ii) determine that no sanctions, fines or penalties should be imposed or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty. The Executive Director, within ten days (10) of receipt of the arbitrators award and recommendations, shall file a determination of such matter and shall cause a copy of such determination to be served upon the respondent by personal service or by certified mail return receipt requested. The award of the arbitrator, and the fines and penalties imposed by the Executive Director, shall be final determinations and may only be vacated or modified as provided in the civil practice law and rules ("CPLR").

(m) The contractor shall provide contracting agency with information regarding all subcontracts awarded under any County Contract, including the amount of compensation paid to each Subcontractor and shall complete all forms provided by the Executive Director or the Department Head relating to subcontractor utilization and efforts to obtain M/WBE participation.

Failure to comply with provisions (a) through (m) above, as ultimately determined by the Executive Director, shall be a material breach of the contract constituting grounds for immediate termination. Once a final determination of failure to comply has been reached by the Executive Director, the determination of whether to terminate a contract shall rest with the Deputy County Executive with oversight responsibility for the contracting agency.

Provisions (a), (b) and (c) shall not be binding upon Contractors or Subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate, or distinct from the County Contract as expressed by its terms.

The requirements of the provisions (a), (b) and (c) shall not apply to any employment or application for employment outside of this County or solicitations or advertisements therefor or any existing programs of affirmative action regarding employment outside of this County and the effect

of contract provisions required by these provisions (a), (b) and (c) shall be so limited.

The Contractor shall include provisions (a), (b) and (c) in every Subcontract in such a manner that these provisions shall be binding upon each Subcontractor as to work in connection with the County Contract.

As used in this Appendix EE the term "Best Efforts Checklist" shall mean a list signed by the Contractor, listing the procedures it has undertaken to procure Subcontractors in accordance with this Appendix EE.

As used in this Appendix EE the term "County Contract" shall mean (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000), whereby a County contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the County; or (ii) a written agreement in excess of one hundred thousand dollars (\$100,000), whereby a County contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon. However, the term "County Contract" does not include agreements or orders for the following services: banking services, insurance policies or contracts, or contracts with a County contracting agency for the sale of bonds, notes or other securities.

As used in this Appendix EE the term "County Contractor" means an individual, business enterprise, including sole proprietorship, partnership, corporation, not-for-profit corporation, or any other person or entity other than the County, whether a contractor, licensor, licensee or any other party, that is (i) a party to a County Contract, (ii) a bidder in connection with the award of a County Contract, or (iii) a proposed party to a County Contract, but shall not include any Subcontractor.

As used in this Appendix EE the term "County Contractor" shall mean a person or firm who will manage and be responsible for an entire contracted project.

As used in this Appendix EE "Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises" shall include, but is not limited to the following:

- a. Proof of having advertised for bids, where appropriate, in minority publications, trade newspapers/notices and magazines, trade and union publications, and publications of general circulation in Nassau County and surrounding areas or having verbally solicited M/WBEs whom the County Contractor reasonably believed might have the qualifications to do the work. A copy of the advertisement, if used, shall be included to demonstrate that it contained language indicating that the County Contractor welcomed bids and quotes from M/WBE Subcontractors. In addition, proof of the date(s) any such advertisements appeared must be included in the Best Effort Documentation. If verbal solicitation is used, a County Contractor's affidavit with a notary's signature and stamp shall be required as part of the documentation.

- b. Proof of having provided reasonable time for M/WBE Subcontractors to respond to bid opportunities according to industry norms and standards. A chart outlining the schedule/time frame used to obtain bids from M/WBEs is suggested to be included with the Best Effort Documentation
- c. Proof or affidavit of follow-up of telephone calls with potential M/WBE subcontractors encouraging their participation. Telephone logs indicating such action can be included with the Best Effort Documentation
- d. Proof or affidavit that M/WBE Subcontractors were allowed to review bid specifications, blue prints and all other bid/RFP related items at no charge to the M/WBEs, other than reasonable documentation costs incurred by the County Contractor that are passed onto the M/WBE.
- e. Proof or affidavit that sufficient time prior to making award was allowed for M/WBEs to participate effectively, to the extent practicable given the timeframe of the County Contract.
- f. Proof or affidavit that negotiations were held in good faith with interested M/WBEs, and that M/WBEs were not rejected as unqualified or unacceptable without sound business reasons based on (1) a thorough investigation of M/WBE qualifications and capabilities reviewed against industry custom and standards and (2) cost of performance. The basis for rejecting any M/WBE deemed unqualified by the County Contractor shall be included in the Best Effort Documentation
- g. If an M/WBE is rejected based on cost, the County Contractor must submit a list of all sub-bidders for each item of work solicited and their bid prices for the work.
- h. The conditions of performance expected of Subcontractors by the County Contractor must also be included with the Best Effort Documentation
- i. County Contractors may include any other type of documentation they feel necessary to further demonstrate their Best Efforts regarding their bid documents.

As used in this Appendix EE the term "Executive Director" shall mean the Executive Director of the Nassau County Office of Minority Affairs; provided, however, that Executive Director shall include a designee of the Executive Director except in the case of final determinations issued pursuant to Section (a) through (l) of these rules.

As used in this Appendix EE the term "Subcontract" shall mean an agreement consisting of part or

parts of the contracted work of the County Contractor.

As used in this Appendix EE, the term "Subcontractor" shall mean a person or firm who performs part or parts of the contracted work of a prime contractor providing services, including construction services, to the County pursuant to a county contract. Subcontractor shall include a person or firm that provides labor, professional or other services, materials or supplies to a prime contractor that are necessary for the prime contractor to fulfill its obligations to provide services to the County pursuant to a county contract. Subcontractor shall not include a supplier of materials to a contractor who has contracted to provide goods but no services to the County, nor a supplier of incidental materials to a contractor, such as office supplies, tools and other items of nominal cost that are utilized in the performance of a service contract.

Provisions requiring contractors to retain or submit documentation of best efforts to utilize certified subcontractors and requiring Department head approval prior to subcontracting shall not apply to inter-governmental agreements. In addition, the tracking of expenditures of County dollars by not-for-profit corporations, other municipalities, States, or the federal government is not required.

Appendix L

Certificate of Compliance

In compliance with Local Law 1-2006, as amended (the "Law"), Counsel hereby certifies the following:

1. The chief executive officer of Contractor is:

Robert J. Avallone - Managing Partner (Name)
425 Broad Hollow Rd Melville NY 11747 (Address)
(631) 755-0101 (Telephone Number)

2. The Contractor agrees to either (1) comply with the requirements of the Nassau County Living Wage Law or (2) as applicable, obtain a waiver of the requirements of the Law pursuant to section 9 of the Law. In the event that the Contractor does not comply with the requirements of the Law or obtain a waiver of the requirements of the Law, and such Contractor establishes to the satisfaction of the Department that at the time of execution of this Agreement, it had a reasonable certainty that it would receive such waiver based on the Law and Rules pertaining to waivers, the County will agree to terminate the contract without imposing costs or seeking damages against the Contractor

3. In the past five years, Contractor has has not been found by a court or a government agency to have violated federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If a violation has been assessed against the Contractor, describe below:

4. In the past five years, an administrative proceeding, investigation, or government body-

initiated judicial action _____ has _____ has not been commenced against or relating to the Contractor in connection with federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If such a proceeding, action, or investigation has been commenced, describe below:

5. Contractor agrees to permit access to work sites and relevant payroll records by authorized County representatives for the purpose of monitoring compliance with the Living Wage Law and investigating employee complaints of noncompliance.

I hereby certify that I have read the foregoing statement and, to the best of my knowledge and belief, it is true, correct and complete. Any statement or representation made herein shall be accurate and true as of the date stated below.

Dated 12/20/11

[Signature] Managing Dir.
Signature of Chief Executive Officer

Robert J. Avallone
Name of Chief Executive Officer

Sworn to before me this

20th day of December, 2011.

Jessica Colangelo
Notary Public

JESSICA COLANGELO
NOTARY PUBLIC, State of New York
Registration No. 01C05937310
Qualified in Nassau County
Commission Expires: November 3, 2013

Contract ID#: CQAT11000032

Department: County Attorney**Contract Details**

SERVICES: Special Counsel

E-110-14NIFS ID #: CLAT14000009 NIFS Entry Date: 03/26/2014 Term: November 28, 2011 - Completion

New <input type="checkbox"/> Renewal <input type="checkbox"/>
Amendment # 1 <input checked="" type="checkbox"/>
Time Extension <input type="checkbox"/>
Addl. Funds <input checked="" type="checkbox"/>
Blanket Resolution <input type="checkbox"/>
RES#

1) Mandated Program:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2) Comptroller Approval Form Attached:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
3) CSEA Agmt. § 32 Compliance Attached:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4) Vendor Ownership & Mgmt. Disclosure Attached:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
5) Insurance Required	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Agency Information

Vendor	
Name Lewis Johs Avallone Aviles, LLP	Vendor ID# 113168894
Address One CA Plaza Suite 225 Islandia, New York 11749	Contact Person Robert J. Avallone
	Phone (631) 755-0101

County Department
Department Contact Daniel Gregware
Address 1 West St. Mineola, New York 11501
Phone (516) 571-1675

Routing Slip

DATE Rec'd.	DEPARTMENT	Internal Verification	DATE App'd & Fw'd.	SIGNATURE	Leg. Approval Required
	Department	NIFS Entry (Dept) <input type="checkbox"/> NIFS Appvl (Dept. Head) <input type="checkbox"/>		<i>all HSE</i>	
	OMB	NIFS Approval <input type="checkbox"/>	4/2/14	<i>Josephine Suter</i>	
4/3/14	County Attorney	CA RE&I Verification <input checked="" type="checkbox"/>	4/3/14	<i>A. Suter</i>	
	County Attorney	CA Approval as to form <input checked="" type="checkbox"/>	4/3/14	<i>SKN</i>	
	Legislative Affairs	Fw'd Original K to CA <input type="checkbox"/>	4/8/14	<i>Gregory A. May</i>	
	Rules <input type="checkbox"/> Leg. <input type="checkbox"/>	<input type="checkbox"/>			
	County Attorney	NIFS Approval <input type="checkbox"/>	4/8/14	<i>8'2 5.50</i>	
	County Comptroller	NIFS Approval <input checked="" type="checkbox"/>	5/2/14	<i>S</i>	5/20/14
	County Executive	Nourization Filed with Clerk of the Leg. <input type="checkbox"/>	7/7/14	<i>Est. Hase</i>	

Contract Summary

Description: Outside counsel legal services, Amendment # 1

Purpose: The original contract was to represent the County in Robert J. Del Col, Esq. and Leftheris "Ted" Doukas v. County of Nassau, et al. This amendment increases the maximum amount and amends the services so that Counsel shall also represent the County and/or such other party as the County may be required to defend, in the Randy A. Hoskins, aka Randy A. White v. County of Nassau, Nassau County Police Department, Commissioner of Police Thomas Dale, Chief of Detectives John Capece, Sgt. Sal Mistretta, Police Officers "John Does 1-10", Nassau County Jail and Sheriffs Department, Correction Officers "John Does 11-20", Elected and Appointed Officials "John Does 21-30", case that is at the Notice of Claim stage.

Method of Procurement: For the services added under this amendment: A Request for Qualification was issued and a panel established. Lewis Johs Avallone Aviles, LLP has been added to this panel. The firm has been selected for this contract after a review of the panel based on the firm's experience, expertise in the subject matter, and availability.

Procurement History: For the services provided under the original contract: An RFQ was issued and a panel was established. Lewis Johs Avallone Aviles, LLP was selected off of that panel based upon their experience, expertise and availability for the services provided under the original contract. Further, Lewis Johs Avallone Aviles, LLP had previous contracts with the County.

Description of General Provisions: As described above

Impact on Funding / Price Analysis: \$175,000.00

Change in Contract from Prior Procurement: N/A

Recommendation: approve as submitted

Advisement Information

BUDGET CODES	
Fund:	GEN
Control:	AF
Resp:	1100
Object:	DE502
Transaction:	


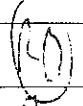
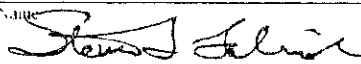
FUNDING SOURCE	AMOUNT
Revenue Contract <input type="checkbox"/>	XXXXXXXX
County	\$175,000.00
Federal	\$
State	\$
Capital	\$
Other	\$
TOTAL	\$175,000.00

LINE	INDEX/OBJECT CODE	AMOUNT
1	ATGEN1100/DE502	\$175,000.00
2		\$
3		\$
4		\$
5	<i>Y. Avallone 4/3/14</i>	\$
6		\$
TOTAL		\$175,000.00

RENEWAL	
% Increase	
% Decrease	

Document Prepared By: _____

Date: _____

NIFS Certification	Comptroller Certification	County Executive Approval
I certify that this document was accepted into NIFS	I certify that an unencumbered balance sufficient to cover this contract is present in the appropriation to be charged.	Name: 
Name: 	Name: 	Date: <i>4/2/14</i>
Date: <i>5/22/14</i>	Date: <i>5/22/14</i>	E #:

E-110-14

RULES RESOLUTION NO 143-014

A RESOLUTION AFFIRMING AN AMENDMENT TO A
SPECIAL COUNSEL CONTRACT ENTERED INTO BY THE NASSAU
COUNTY ATTORNEY AND LEWIS JOHS AVALLONE AVILES, LLP.

Passed by the Rules Committee
Nassau County Legislature
By Voice Vote on 5-5-14
VOTING:
ayes 4 nays 3 abstained 0 recused 0
Legislators present: 7

WHEREAS, the Nassau County Attorney has executed an amendment
to a special counsel agreement with Lewis Johs Avallone Aviles, LLP., a
copy of which is on file with the Clerk of the Legislature; now, therefore, be
it

RESOLVED, notwithstanding Nassau County Charter Section 1101,
the Rules Committee of the Nassau County Legislature affirms the
amendment to a special counsel contract entered into by the Nassau County
Attorney and Lewis Johs Avallone Aviles, LLP.

RULES RESOLUTION NO. 2014

A RESOLUTION AFFIRMING AN AMENDMENT TO A
SPECIAL COUNSEL CONTRACT ENTERED INTO BY THE NASSAU
COUNTY ATTORNEY AND LEWIS JOHS AVALLONE AVILES, LLP.

WHEREAS, the Nassau County Attorney has executed an amendment to a special counsel agreement with Lewis Johs Avallone Aviles, LLP., a copy of which is on file with the Clerk of the Legislature; now, therefore, be it

RESOLVED, notwithstanding Nassau County Charter Section 1101, the Rules Committee of the Nassau County Legislature affirms the amendment to a special counsel contract entered into by the Nassau County Attorney and Lewis Johs Avallone Aviles, LLP.

George Maragos
Comptroller



OFFICE OF THE COMPTROLLER
240 Old Country Road
Mineola, New York 11501

COMPTROLLER APPROVAL FORM FOR PERSONAL, PROFESSIONAL OR HUMAN SERVICES CONTRACTS

Attach this form along with all personal, professional or human services contracts, contract renewals, extensions and amendments.

CONTRACTOR NAME: Lewis Johs Avallone Aviles, LLP (CLAT14000009)

CONTRACTOR ADDRESS: One CA Plaza, Suite 225, Islandia, New York 11749

FEDERAL TAX ID #: 113168894

Instructions: Please check the appropriate box ("☐") after one of the following roman numerals, and provide all the requested information.

I. ☐ The contract was awarded to the lowest, responsible bidder after advertisement for sealed bids. The contract was awarded after a request for sealed bids was published in _____ [newspaper] on _____ [date]. The sealed bids were publicly opened on _____ [date]. _____ [#] of sealed bids were received and opened.

II. ☐ The contractor was selected pursuant to a Request for Proposals.

The Contract was entered into after a written request for proposals was issued on _____ [date]. Potential proposers were made aware of the availability of the RFP by _____ [newspaper advertisement, posting on website, mailing, etc.]. _____ [#] of potential proposers requested copies of the RFP. Proposals were due on _____ [date]. _____ [#] proposals were received and evaluated. The evaluation committee consisted of: _____

_____ [list members]. The proposals were scored and ranked. As a result of the scoring and ranking (attached), the highest-ranking proposer was selected

III. ☒ This is a renewal, extension or amendment of an existing contract.

The contract was originally executed by Nassau County on March 5, 2012. This is a renewal or extension pursuant to the contract, or an amendment within the scope of the contract or RFP (copies of the relevant pages are attached). For the services provided under the original contract: An RFQ was issued and a panel was established. Lewis Johs Avallone Aviles, LLP was selected off of that panel based upon their experience, expertise and availability for the services provided under the original contract. Further, Lewis Johs Avallone Aviles, LLP had previous contracts with the County. For the services added under this amendment: A Request for Qualification was issued and a panel established. Lewis Johs Avallone Aviles, LLP has been added to this panel. The firm has been selected for this contract after a review of the panel based on the firms' experience, expertise in the subject matter, and availability.

IV. ☐ Pursuant to Executive Order No. 1 of 1993, as amended, at least three proposals were solicited and received. The attached memorandum from the department head describes the proposals received, along with the cost of each proposal.

- ☐ A. The contract has been awarded to the proposer offering the lowest cost proposal; **OR:**
- ☐ B. The attached memorandum contains a detailed explanation as to the reason(s) why the contract was awarded to other than the lowest-cost proposer. The attachment includes a specific delineation of the unique skills and experience, the specific reasons why a proposal is deemed superior, and/or why the proposer has been judged to be able to perform more quickly than other proposers.

V. ☐ Pursuant to Executive Order No. 1 of 1993 as amended, the attached memorandum from the department head explains why the department did not obtain at least three proposals.

- ☐ A. There are only one or two providers of the services sought or less than three providers submitted proposals. The memorandum describes how the contractor was determined to be the sole source provider of the personal service needed or explains why only two proposals could be obtained. If two proposals were obtained, the memorandum explains that the contract was awarded to the lowest cost proposer, or why the selected proposer offered the higher quality proposal, the proposer's unique and special experience, skill, or expertise, or its availability to perform in the most immediate and timely manner.
- ☐ B. The memorandum explains that the contractor's selection was dictated by the terms of a federal or New York State grant, by legislation or by a court order. (Copies of the relevant documents are attached).
- ☐ C. Pursuant to General Municipal Law Section 104, the department is purchasing the services required through a New York State Office of General Services contract no. _____, and the attached memorandum explains how the purchase is within the scope of the terms of that contract.
- ☐ D. Pursuant to General Municipal Law Section 119-o, the department is purchasing the services

required through an inter-municipal agreement.

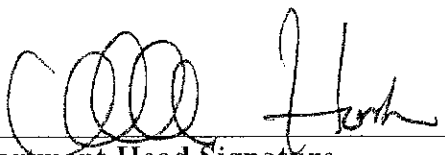
VI. ☐ This is a human services contract with a not-for-profit agency for which a competitive process has not been initiated. Attached is a memorandum that explains the reasons for entering into this contract without conducting a competitive process, and details when the department intends to initiate a competitive process for the future award of these services. For any such contract, where the vendor has previously provided services to the county, attach a copy of the most recent evaluation of the vendor's performance. If the contractor has not received a satisfactory evaluation, the department must explain why the contractor should nevertheless be permitted to contract with the county.

In certain limited circumstances, conducting a competitive process and/or completing performance evaluations may not be possible because of the nature of the human services program, or because of a compelling need to continue services through the same provider. In those circumstances, attach an explanation of why a competitive process and/or performance evaluation is inapplicable.

VII. ☐ This is a public works contract for the provision of architectural, engineering or surveying services. The attached memorandum provides details of the department's compliance with Board of Supervisors' Resolution No.928 of 1993, including its receipt and evaluation of annual Statements of Qualifications & Performance Data, and its negotiations with the most highly qualified firms.

In addition, if this is a contract with an individual or with an entity that has only one or two employees:

☐ a review of the criteria set forth by the Internal Revenue Service, *Revenue Ruling No. 87-41, 1987-1 C.B. 296*, attached as Appendix A to the Comptroller's Memorandum, dated February 13, 2004, concerning independent contractors and employees indicates that the contractor would not be considered an employee for federal tax purposes.



Department Head Signature
3/28/14

Date

NOTE: Any information requested above, or in the exhibit below, may be included in the county's "staff summary" form in lieu of a separate memorandum.

Compt. form Pers./Prof. Services Contracts: Rev. 02/04

Name, Business Address and Telephone Numbers of All Principals of
Lewis Johs Avallone Aviles, L.L.P.

One CA Plaza, Suite 225
Islandia, New York 11749
631.755.0101

William J. Lewis, Partner
Frederick C. Johs, Partner
Robert J. Avallone, Partner
Deborah A. Aviles, Partner
Thomas J. Dargan, Partner
Eileen H. Libutti, Partner
Jeffrey M. Pincus, Partner
Jason T. Katz, Partner
Michael Colavaccino, Partner
Robert W. Doyle, Partner

AMENDMENT NO. 1

AMENDMENT (together with any appendices or exhibits attached hereto, this "Amendment") dated as of the date (the "Effective Date") that this Amendment is executed by Nassau County, between (i) Nassau County, a municipal corporation having its principal office at 1550 Franklin Avenue, Mineola, New York 11501 (the "County"), acting for and on behalf of the Office of the Nassau County Attorney, having its principal office at One West Street, Mineola, New York 11501 (the "Department"), and (ii) Lewis Johs Avallone Aviles, LLP, having an office located at One CA Plaza, Suite 225, Islandia, New York 11749 ("Counsel" or "Contractor").

WITNESSETH:

WHEREAS, pursuant to County contract number CQAT11000032 between the County and Counsel, executed on behalf of the County on March 5, 2012 (the "Original Agreement"), Counsel provides legal services to the County in connection with litigation known as Robert J. Del Col, Esq. and Leftheris "Ted" Doukas v. County of Nassau, et al., Index No. 11-CV-5138-SJF-WDW, which services are more fully described in the Original Agreement (the services contemplated by the Original Agreement, the "Services"); and

WHEREAS, the term of the Original Agreement is from November 28, 2011 until completion of Services, unless sooner terminated in accordance with the provisions of the Original Agreement (the "Original Term"); and

WHEREAS, the maximum amount that the County agreed to reimburse Counsel for Services under the Original Agreement, as full compensation for the Services, was One Hundred Seventy-five Thousand Dollars (\$175,000.00) (the "Maximum Amount"); and

WHEREAS, the County desires to amend the Services and increase the Maximum Amount of the Original Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Amendment, the parties agree as follows:

1. Services. In addition to the Services provided under the Original Agreement, as amended by this Amendment (the "Amended Agreement"), Counsel shall also represent Nassau County, and/or such other party as the County may be required to defend, in the following matter: Randy A. Hoskins, aka Randy A. White v. County of Nassau, Nassau County Police Department, Commissioner of Police Thomas Dale, Chief of Detectives John Capece, Sgt. Sal Mistretta, Police Officers "John Does 1-10", Nassau County Jail and Sheriffs Department, Correction Officers "John Does 11-20", Elected and Appointed Officials "John Does 21-30", currently at the Notice of Claim stage.


2. Maximum Amount. The Maximum Amount in the Original Agreement shall be increased by One Hundred Seventy-five Thousand Dollars (\$175,000.00), so that the maximum amount that the County shall pay to Counsel as full consideration for all services provided under the Amended Agreement shall be Three Hundred Fifty Thousand Dollars (\$350,000.00) (the "Amended Maximum Amount").

3. Full Force and Effect. All the terms and conditions of the Original Agreement not expressly amended by this Amendment shall remain in full force and effect and govern the relationship of the parties for the term of the Amended Agreement.

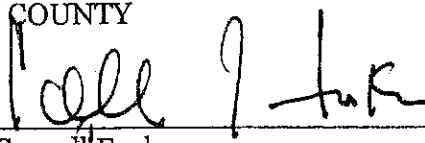
[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.


LEWIS JOHS AVALLONE AVILES, LLP

By: 
Name: Robert J. Avalone
Title: Managing Partner
Date: 3/21/14

NASSAU COUNTY

By: 
Name: Carnell Foskey
Title: County Attorney
Date: 3/28/14

NASSAU COUNTY

By: 
Name: Richard D. Walker
Title: County Executive
☒ Deputy County Executive
Date: 6/19/14

PLEASE EXECUTE IN BLUE INK

STATE OF NEW YORK)

)ss.:

COUNTY OF NASSAU)

On the 21st day of March in the year 2014 before me personally came Robert S. Avalone to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of Suffolk; that he or she is the Managing Partner of Lewis Jols Avalone Aviles the corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto by authority of the board of directors of said corporation.

Jessica Colangelo
NOTARY PUBLIC

JESSICA COLANGELO
NOTARY PUBLIC, State of New York
Registration No. 0123310
Qualified in Suffolk County
Commission Expires December 2, 2017

STATE OF NEW YORK)

)ss.:

COUNTY OF NASSAU)

On the 28th day of March in the year 2014 before me personally came Carnell Foskey to me personally known, who, being by me duly sworn, did depose and say that he resides in the County of Nassau; that he is County Attorney of the County of Nassau, the municipal corporation described herein and which executed the above instrument; and that he signed his name thereto pursuant to Section 1101 of the County Government Law of Nassau County.

NOTARY PUBLIC

Kevin Walsh
KEVIN WALSH
Notary Public, State of New York
No. 02WA4956523
Qualified in Suffolk County
Commission Expires Sept. 25, 2014

STATE OF NEW YORK)

)ss.:

COUNTY OF NASSAU)

On the 19th day of June in the year 2014 before me personally came Richard D. Watke to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of Nassau; that he or she is a Deputy County Executive of the County of Nassau, the municipal corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto pursuant to Section 205 of the County Government Law of Nassau County.

NOTARY PUBLIC

Concetta A. Petrucci

CONCETTA A. PETRUCCI
Notary Public, State of New York
No. 0123456789
Qualified in Nassau County
Commission Expires April 30, 2016

COUNTY OF NASSAU

CONSULTANT'S, CONTRACTOR'S AND VENDOR'S DISCLOSURE FORM

1. Name of the Entity: Lewis Johs Avallone Aviles, LLP
Address: One CA Plaza, Suite 225
City, State and Zip Code: Islandia, NY 11749
2. Entity's Vendor Identification Number: 11-3168894
3. Type of Business: ☐ Public Corp ☒ Partnership ☐ Joint Venture
☐ Ltd. Liability Co ☐ Closely Held Corp ☐ Other (specify)

4. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, all partners and limited partners, all corporate officers, all parties of Joint Ventures, and all members and officers of limited liability companies (attach additional sheets if necessary):

Lewis Johs Avallone Aviles, LLP
One CA Plaza, Suite 225
Islandia, NY 11749

William J. Lewis
Frederick C. Johs
Robert J. Avallone
Deborah A. Aviles
Thomas J. Dargan
Eileen H. Libutti
Jeffrey M. Pincus
Michael T. Colavecchio
Jason T. Katz
Robert W. Doyle

5. List names and addresses of all shareholders, members, or partners of the firm. If the shareholder is not an individual, list the individual shareholders/partners/members. If a Publicly held Corporation include a copy of the 10K in lieu of completing this section.

Same as above

6. List all affiliated and related companies and their relationship to the firm entered on line 1. above (if none, enter "None"). Attach a separate disclosure form for each affiliated or subsidiary company.

NONE

7. List all lobbyists whose services were utilized at any stage in this matter (i.e., pre-bid, bid, post-bid, etc.). The term "lobbyist" means any and every person or organization retained, employed or designated by any client to influence - or promote a matter before - Nassau County, its agencies, boards, commissions, department heads, legislators or committees, including but not limited to the Open Space and Parks Advisory Committee and Planning Commission. Such matters include, but are not limited to, requests for proposals, development or improvement of real property subject to County regulation, procurements, or to otherwise engage in lobbying as the term is defined herein. The term "lobbyist" does not include any officer, director, trustee, employee, counsel or agent of the County of Nassau, or State of New York, when discharging his or her official duties.

(a) Name, title, business address and telephone number of lobbyist(s):

Not Applicable

(b) Describe lobbying activity of each lobbyist. See page 4 of 4 for a complete description of lobbying activities.

Not Applicable

(c) List whether and where the person/organization is registered as a lobbyist (e.g., Nassau County, New York State):

Not Applicable

8. VERIFICATION: This section must be signed by a principal of the consultant, contractor or Vendor authorized as a signatory of the firm for the purpose of executing Contracts.

The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

Dated: 5/28/15

Signed: 

Print Name: Robert J. Arallone

Title: Mayor Pro.

The term lobbying shall mean any attempt to influence: any determination made by the Nassau County Legislature, or any member thereof, with respect to the introduction, passage, defeat, or substance of any local legislation or resolution; any determination by the County Executive to support, oppose, approve or disapprove any local legislation or resolution, whether or not such legislation has been introduced in the County Legislature; any determination by an elected County official or an officer or employee of the County with respect to the procurement of goods, services or construction, including the preparation of contract specifications, including but not limited to the preparation of requests for proposals, or solicitation, award or administration of a contract or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies; any determination made by the County Executive, County Legislature, or by the County of Nassau, its agencies, boards, commissions, department heads or committees, including but not limited to the Open Space and Parks Advisory Committee, the Planning Commission, with respect to the zoning, use, development or improvement of real property subject to County regulation, or any agencies, boards, commissions, department heads or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County; any determination made by an elected county official or an officer or employee of the county with respect to the terms of the acquisition or disposition by the county of any interest in real property, with respect to a license or permit for the use of real property of or by the county, or with respect to a franchise, concession or revocable consent; the proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law; the decision to hold, timing or outcome of any rate making proceeding before an agency; the agenda or any determination of a board or commission; any determination regarding the calendaring or scope of any legislature oversight hearing; the issuance, repeal, modification or substance of a County Executive Order; or any determination made by an elected county official or an officer or employee of the county to support or oppose any state or federal legislation, rule or regulation, including any determination made to support or oppose that is contingent on any amendment of such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.

